

**IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO**

**STATE OF NEW MEXICO, *ex rel.*
State Engineer**

Plaintiff,

v.

RAMON ARAGON, *et al.*,

Defendants.

69cv07941 JEC-ACE

**RIO CHAMA STREAM SYSTEM
Rio Gallina, Section 5**

ORDER STRIKING STATEMENT OF WATER RIGHTS CLAIMS

THIS MATTER is before the Court following the Pretrial Conference held on September 4, 2002 at the United States District Court, Santa Fe, New Mexico, and the oral motion made by the State of New Mexico *ex rel.* State Engineer (“State”) to adjudicate the water rights of Defendants **FRANCES CHAVEZ** and **LEO CHAVEZ** (“Defendants”) by default order. The Court, having considered the record in this cause and being fully advised in the premises, finds:

1. The Court has jurisdiction of the parties and the subject matter herein.
2. Defendants filed a Statement of Water Rights Claim with the Court on November 20, 2000 (Docket No. 6027) claiming water rights in Section 5 of the Rio Chama Stream System.
3. The State disputed the water rights claims of the Defendants, and proposed that the Court adjudicate the claims of the Defendants as “No Right” or without water rights.
4. The Pretrial Order entered May 3, 2002 (Docket No. 6699) required the Defendants to make initial discovery disclosures to the State no later than July 30, 2002; the Defendants failed to exchange this information with the State.

5. The Order Setting Pretrial Conference entered August 26, 2002 (Docket No. 6829) ordered Leo Chavez to appear before the Special Master on September 4, 2002 at the United States District Court in Santa Fe, New Mexico; the Defendant failed to appear as required.
6. Under Federal Rule of Civil Procedure 16(f), if a party fails to obey a scheduling or pretrial order, or fails to appear at a scheduling or pretrial conference, the Court may make such orders with regard thereto as are just, and among others, any of the orders provided in Rule 37(b)(2)(B), (C), (D).
7. The Statement of Water Rights Claim filed by the Defendants in the above-styled and captioned cause should be stricken.

IT IS THEREFORE ORDERED that the Statement of Water Rights Claim filed November 20, 2000 (Docket No. 6027) is hereby stricken from the record in this case.

IT IS FURTHER ORDERED that the Defendants, their successors, representatives, heirs and assigns, are enjoined from any diversion or use of the public surface waters of the Rio Chama Stream System, Section 5, except in strict accordance with this Order or other orders of the Court.

/electronic signature/
DISTRICT JUDGE JOHN EDWARDS CONWAY

Recommended for approval:

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SPECIAL MASTER VICKIE L. GABIN